IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

CWP.No. **1437 of 2002**

Date of Decision : 25.5.2007

Netar Singh …Petitioner.

Versus:

State of H.P. & Others …Respondents.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the petitioner :	Mr. Ramakant Sharma, Advocate.
For respondents 1 to 4 :	Mr. C. B. Singh, Deputy Advocate General
For respondents 5 to 9 :	Mr. Ashwani Kumar Sharma, Advocate.

Sanjay Karol, J (Oral).

This judgment is being dictated in open Court in presence of the learned counsel for the parties.

Petitioner has assailed the order dated 23rd January, 1991 (Annexure P-2) and Annexure P-3 being the order sheet containing orders dated 26.5.1992, 10.6.1992 & 24.6.1992 passed by the Consolidation Officer, Annexure P-5 the order dated 24.11.2001 passed by the Additional Director, Consolidation, and Annexure P-7 the order dated 5.7.2002 passed by the Director, Consolidation of Holdings, Himachal Pradesh. Perusal of a well reasoned and detailed order dated 24.11.2001,

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

shows that after visiting the site and in the presence of the parties, the Director Consolidation passed an order whereby he allotted Khasra Nos. 178, 179, 182 & 183 (new khasra numbers) to the petitioner herein and Khasra Nos. 353, 354 (old No. 325) & 369 (new khasra numbers) to the respondents. In addition, petitioner was also allotted khasra No. 403 in lieu of 325. The grievance made by the petitioner is that khasra No.403, which has been allotted in lieu of petitioner's land at khasra No. 325, is at a far of place defeating the object and the purpose of the H. P. Holdings (Consolidation & Prevention of Fragmentation) Act, 1971.

Learned counsel for the respondents, however, responded to contend that it is not open for the petitioner to assail the order dated 23rd January, 1991 (P-2) and also the various orders passed which are part of Annexure P-3, as they were not assailed by the petitioner within the period of limitation and these orders have not only attained finality but inter se rights between the parties have also crystallized.

Learned counsel for the respondents has relied upon the affidavit stating therein that the newly allotted land to the petitioner being khasra No. 405, is actually contiguous to the petitioner's other land and is not at a distance of One Kilometer. According to him, a false and concocted plea has been taken by the petitioner, which is totally contrary to the record. The fact that the newly allotted land is contiguous to the other land of the petitioner has not been disputed.

From the perusal of the impugned order dated 24.11.2001 (P-5), it is clear that the Director Consolidation not only visited the site but also recorded that the plea taken by the petitioner that he has set up a cow shed on the land on Khasra No. 325 is factually incorrect and that in

lieu of khasra No. 325, petitioner has been allotted double value of the land belonging to the respondents on equitable considerations as also seeing ground reality. Even though the order dated 5.7.2002 (Annexure P-7), is unreasoned. However, the Director Consolidation of Holdings has referred to and relied upon the reasonings given by the Additional Director Consolidation and has agreed with the same.

I see no reason to interfere with the well reasoned order passed by the Additional Director Consolidation. He has visited the site and seeing the ground reality, distributed, consolidated and allotted the land on equitable considerations and, therefore, I see no infirmity with the order passed by the Additional Director Consolidation.

Since the petitioner has vehemently argued that the allotted land is at a far of place, in the interest of justice, respondents No. 1 to 4 may reconsider the said allotment afresh, without disturbing the allotment made to the respondents in accordance with law.

With the aforesaid reasons, the present writ petition is accordingly disposed of.

(Sanjay Karol),
Judge.

May 25, 2007.
(rana)